

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7108 OF 2005

The Maharashtra State Road Transport Corpn.....
Petitioner
V/s
Rajaram Laxman Jadhav...
Respondent.

Mr.G.S.Hegde, Adv. For the petitioner.

Mr.D.S.Mhaispurkar, Adv. For the respondent.

CORAM: A.P. DESHPANDE, J.
11.4.2007

PC:

Rule.

Rule made returnable forthwith. Taken up for hearing by consent of the parties.

This writ petition is filed by The Maharashtra State Road Transport Corporation challenging the judgment and order passed by the Industrial Court dismissing the revision filed by the petitioner and in turn confirming the order passed by the Labour Court. In a complaint filed by the respondent who was working as assistant artisan with the petitioner he made a grievance that the notice of dismissal served by the petitioner to the respondent amounts to unfair labour practice and the Labour Court did proceed to hold that the notice of dismissal dated

4.1.2001 issued to the respondent by the petitioner constitute unfair labour practice. Few facts which are relevant for deciding question involved in this petition are narrated herein below.

2. The respondent approached the Depot Manager on 27.4.99 and sought leave from 13.5.99 to 28.5.99 and for that purpose had stated religious grounds and need to visit the native place. As the Depot Manager was of the view that it being summer season there would be heavy traffic of passengers and hence found that it was not feasible to sanction leave for the period asked for by the respondent. He noted on the application that the leave for the period asked for cannot be granted. Upon such endorsement being made by the Depot Manager the respondent is said to have used bad words and threatened the Depot Manager in disrespectful manner and further is said to have proclaimed before the Depot Manager that he would see to it as to how leave is not sanctioned. The behavior of the respondent was arrogant and as he had misbehaved with his superior in the presence of another employee of the Corporation by name Mr.Danekar, the Depot Manager made a complaint to the higher authorities. On receipt of the complaint an inquiry was held and it was found in inquiry that the respondent was guilt of misconduct. The inquiry officer proposed the punishment of withholding of increment for a period of six months without cumulative effect. The said punishment was brought into

effect on 25.5.2000.

3. The Review Authority in exercise of its powers vested in it under clauses 9 and 10 of the Disciplinary & Appeal Rules came to the conclusion that the punishment awarded was not proper and hence issued show cause notice of dismissal. Aggrieved by the notice of dismissal dated 4.4.2001 respondent moved the Labour Court by filing the above referred complaint. The Labour Court though recorded the finding that the respondent has committed misconduct, has found the proposed punishment of dismissal to be shockingly disproportionate with the act of misconduct and hence declared that the petitioner has committed an unfair labour practice. The Labour Court held thus:

“..... Punishment of dismissal sought to be imposed is shockingly harsh and disproportionate.”

4. The Labour Court did not impose any lesser punishment or suggested the same to the petitioner to be imposed and hence the petitioner chose to file revision under section 44 before the Industrial Court. The Industrial Court as well toeing in line with the Labour Court concluded that the proposed punishment of dismissal was shockingly disproportionate.

5. In these facts situation the learned counsel for the petitioner on instructions from his client and in response to the order passed by this

Court dated 25.4.06 submits that stoppage of one annual increment with cumulative effect would sub serve the ends of justice. The learned counsel for the respondent has no instructions in that regard from his client.

6. Having regard to the totality of facts and circumstances on record I am of the clear view that stoppage of one yearly increment permanently would be proportionate punishment to the act of misconduct committed by the respondent, which is in the nature of insubordination, on account of arrogant and rude behavior with the Depot Manager on declining to grant the request made by respondent for sanction of leave. As both the Courts below have failed to spell out lesser punishment proportionate to the act of misconduct, a limited interference with the impugned order is called for. The petitioner is permitted to impose punishment of stoppage of one annual increment permanently on the respondent. With this modification in the impugned order writ petition is partly allowed. Rule is partly made absolute in above terms with no order as to costs.